

ESTTA Tracking number: **ESTTA643870**

Filing date: **12/11/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Detroit Tigers, Inc.
Granted to Date of previous extension	12/14/2014
Address	Comerica Park 2100 Woodward Avenue Detroit, MI 48201 UNITED STATES
Attorney information	Don M. Obert Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036 UNITED STATES mlk@cll.com, dmo@cll.com, trademark@cll.com, jmn@cll.com, las@cll.com, njh@cll.com Phone:212-790-9200

### Applicant Information

Application No	86166555	Publication date	06/17/2014
Opposition Filing Date	12/11/2014	Opposition Period Ends	12/14/2014
Applicant	GIAMPAOLA, TODD J 7305 BISHOP BRIGHTON, MI 48116 UNITED STATES		

### Goods/Services Affected by Opposition

Class 025. First Use: 2010/06/15 First Use In Commerce: 2012/08/09  
All goods and services in the class are opposed, namely: sweatshirts, t shirts

### Grounds for Opposition

Other	Please see attached pleading.
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Attachments	D DETROIT BOY Ser No 86166555 COMM LET 12112014.pdf(49889 bytes ) D DETROIT BOY Ser No 86166555 NOO 12112014.pdf(171994 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Don M. Obert/
Name	Don M. Obert
Date	12/11/2014



Cowan, Liebowitz & Latman, P.C.  
1133 Avenue of the Americas  
New York, NY 10036  
(212) 790-9200 Tel  
(212) 575-0671 Fax  
www.cll.com

December 11, 2014

**By Electronic Filing**

Commissioner for Trademarks  
Attn: TTAB  
P.O. Box 1451  
Alexandria, VA 22313-1451

Re: Detroit Tigers, Inc.  
Notice of Opposition Against  
Todd J. Giampaola  
Application to Register D DETROIT BOY and Design  
Ref. No. 21307.029

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Dear Commissioner:

We enclose a Notice of Opposition against Application Serial Number 86/166,555 published in the Official Gazette on June 17, 2014. Contemporaneously with the electronic filing of this Notice of Opposition, we are arranging for an electronic payment in the amount of \$300.00 to cover the filing fee.

If the amount received is insufficient and additional fees are required, please charge our Deposit Account No. 03-3415.

Please address all future correspondence to the attention of Mary L. Kevlin of Cowan, Liebowitz & Latman, P.C.

Respectfully submitted,

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/Don M. Obert/  
Don M. Obert

Enclosures

cc: Ms. Diane Kovach (w/encs.)  
Mary L. Kevlin, Esq. (w/encs.)  
Richard S. Mandel, Esq. (w/encs.)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application Serial No. 86/166,555  
Filed: January 15, 2014  
For Mark: D DETROIT BOY and Design  
Published in the Official Gazette: June 17, 2014

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DETROIT TIGERS, INC.,	:	
	:	Opposition No.
Opposer,	:	
	:	
v.	:	<b><u>NOTICE OF OPPOSITION</u></b>
	:	
TODD J. GIAMPAOLA,	:	
	:	
Applicant.	:	
-----	X	

Commissioner for Trademarks  
Attn: Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Opposer, Detroit Tigers, Inc. ("Opposer"), a Michigan corporation, with offices at Comerica Park, 2100 Woodward Avenue, Detroit, Michigan 48201, believes that it will be damaged by registration of the mark D DETROIT BOY and Design as depicted here



("Applicant's Mark") in International Class 25 for "sweatshirts, t shirts" as

shown in Application Serial No. 86/166,555 (the "Application"), and having been granted extensions of time to oppose up to and including December 14, 2014, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the renowned DETROIT TIGERS MAJOR LEAGUE BASEBALL club.

2. Since long prior to June 15, 2010, Applicant's claimed first use date, Opposer and its predecessors, and their affiliated and related entities, licensees and/or sponsors have long used and are using marks comprising or containing the letter "D" including, without limitation, in the distinctive stylizations shown here:



(“Opposer’s D Marks”), and marks comprising or containing the word “DETROIT,” alone or with other word, letter and/or design elements (collectively, “Opposer’s DETROIT Marks”) (collectively, with Opposer’s D Marks, “Opposer’s Marks”), in connection with baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, apparel, including, without limitation, sweatshirts, sweat pants, t-shirts, headwear, jackets, pants, shirts, shorts and socks; jewelry; paper goods and printed matter; toys and sporting goods; and novelty items.

3. Opposer owns United States federal registrations and applications for Opposer’s Marks in International Classes 6, 9, 14, 16, 18, 21, 25, 28 and 41, namely, United States Registration Nos. 1,015,996; 1,021,470; 1,218,465; 1,480,101; 1,542,579; 1,564,159; 1,594,853; 1,595,058; 1,595,278; 1,983,453; 2,001,049; 2,182,612; 2,536,080; 2,575,838; 2,593,883; 3,341,381; 3,345,553; 3,562,538; and 3,950,214 and Application Serial Nos. 85/696,396; 85/696,400 and 85/696,411. Registration Nos. 1,015,996; 1,021,470; 1,218,465; 1,480,101; 1,542,579; 1,564,159; 1,594,853; 1,595,058; 1,595,278; 2,001,049; 2,182,612; 2,593,883 and

2,575,838 are incontestable. Registration Nos. 1,983,453 and 2,536,080 are partially incontestable.

4. Since long prior to June 15, 2010, Applicant's claimed first use date, Opposer and its predecessors, and their affiliated and related entities, licensees and/or sponsors have used Opposer's Marks, in the color orange, or the combined colors orange and blue or orange and black ("Opposer's Trade Dress Colors").

5. Since long prior to June 15, 2010, Applicant's claimed first use date, Opposer and its predecessors, and their affiliated and related entities, licensees and/or sponsors have promoted and advertised the sale and distribution of goods and services bearing or offered in connection with Opposer's Marks, including, but not limited to, apparel, including, without limitation, sweatshirts, sweat pants, t-shirts, headwear, jackets, pants, shirts, shorts and socks; jewelry; paper goods and printed matter; toys and sporting goods; and novelty items, and have offered such goods and rendered such services in commerce.

6. As a result of the sales and promotion of its goods and services bearing or offered in connection with Opposer's Marks, Opposer has built up highly valuable goodwill in Opposer's Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.

7. On January 15, 2014, Applicant filed the Application for Applicant's Mark for "sweatshirts, t shirts" in International Class 25, claiming a first use date of June 15, 2010.

8. Upon information and belief, Applicant did not use Applicant's Mark for the goods covered in the Application in United States commerce prior to his claimed first use date of June 15, 2010.

9. The goods covered by the Application are identical and/or closely related to the goods offered and services rendered in connection with Opposer's Marks.

10. Upon information and belief, Applicant is a resident of the Detroit, Michigan metropolitan area, where the Club and the Club's home ballpark are located.

11. Upon information and belief, Applicant has and/or currently advertises and offers for sale apparel on Applicant's website, <http://www.detroitboygear.com/> ("Applicant's Website") or through Applicant's dedicated Facebook page, <https://www.facebook.com/pages/Detroit-Boy/141058829409520> ("Applicant's Facebook Page").

12. Upon information and belief, Applicant advertises and offers for sale on Applicants' Website and Facebook Page apparel bearing Applicant's Mark, which is used in the Detroit Club's Trade Dress Colors, including as shown in Paragraph 13 below and in Exhibit A.

13. Upon information and belief, Applicant advertises and offers for sale on Applicants' Website and Facebook Page apparel bearing the stylized "D" letter in Applicant's Mark ("Applicant's Stylized D Element"), which is depicted in a stylization that is nearly identical to certain of Opposer's D Marks, including, without limitation, as shown here and in Exhibit A attached hereto:

One of Opposer's Cap and Primary D Marks



Applicants' Mark



14. Applicant's Mark so resembles certain of Opposer's D Marks in that Applicant's Stylized D Element is identical or nearly identical to certain of Opposer's D Marks that have

long identified Opposer, as to be likely, when coupled with the word “DETROIT” and depicted in Opposer’s Trade Dress Colors, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant’s goods have their origin with Opposer and/or that such goods are approved, endorsed or sponsored by Opposer or associated in some way with Opposer. Opposer would thereby be injured by the granting to Applicant of a certificate of registration for Applicant’s Mark.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant’s Mark and requests that the opposition be sustained and said registration be denied.

Please recognize as attorneys for Opposer in this proceeding Mary L. Kevlin, Richard S. Mandel and Don M. Obert (members of the bar of the State of New York) and the firm Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036.

Please address all communications to Mary L. Kevlin, Esq. at the address listed below.

Dated: New York, New York  
December 11, 2014

Respectfully submitted,

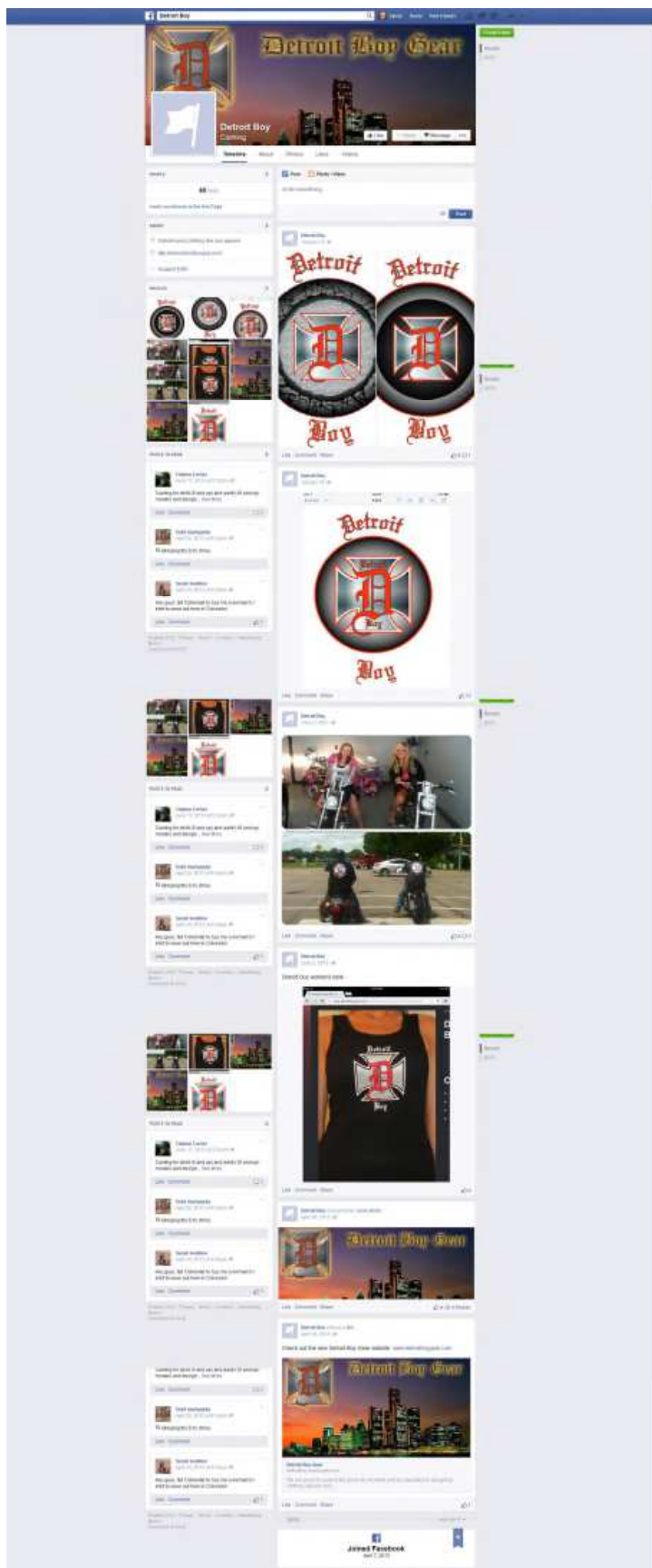
COWAN LIEBOWITZ & LATMAN, P.C.  
Attorneys for Opposer

By: /Don M. Obert /

Mary L. Kevlin  
Richard S. Mandel  
Don M. Obert  
1133 Avenue of the Americas  
New York, New York 10036  
(212)790-9200



**EXHIBIT A**



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on December 11, 2014, I caused a true and correct copy of the foregoing Amended Notice of Opposition to be sent via First Class Mail, postage prepaid, to Applicant and Applicant's Correspondent of Record: Todd J. Giampaola, 7305 Bishop Rd., Brighton, MI 48116-8304.

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/Don M. Obert /  
Don M. Obert